



Jensen v. Sawyers, 130 P.3d 325 (Utah S. Ct. 2005)

Topics Covered: Physicians' Privacy Rights, Ethics

Outcome: Unfavorable

Issue

The issue in this case was whether a physician has a protectible right of privacy in connection with a patient examination.

AMA Interest

The AMA supports physicians' privacy right.

Case Summary

A television reporter, Mary Sawyers, used a hidden video camera to tape Dr. Jensen prescribing phentermine and fenfluramine ("Phen-Fen") for weight loss without undertaking a complete physical examination. During a news broadcast, Ms. Sawyers showed portions of her recordings and charged Dr. Jensen with promising "illegal" medication. In fact, while Dr. Jensen's examination was less thorough than it should have been under acceptable medical standards, he did make a partial evaluation of her physical condition. Also, he did not prescribe any illegal medications for Ms. Sawyers.

As a result of this report, Dr. Jensen lost his job and his hospital privileges. The Utah Division of Occupational and Professional Licensing placed his medical license on probation for one year and ordered him to attend classes on medical ethics. Although Dr. Jensen continued to maintain his license, he was unable to develop patients outside of the nursing home at which he was practicing medicine. The "punishment" that Dr. Jensen received from the damaging publicity far exceeded any transgression on his part.

Dr. Jensen sued the television reporter and the television station and the jury rendered a verdict in his favor. However, the trial court reduced the verdict. Both sides appealed.

The Utah Supreme Court partially vacated the verdict and damages awards based on Dr. Jensen's invasion of privacy claims from the first and second broadcasts as time-barred by the statute of limitations. Further, the Court modified the economic loss and damages award based on Dr. Jensen's claims relating to the third broadcast. The Court affirmed the trial court on all other issues raised on appeal.

Litigation Center Involvement

The Utah Medical Association and the Litigation Center filed an *amicus curiae* brief to support Dr. Jensen. The brief highlighted several sections of the Code of Medical Ethics, emphasizing the personal, collaborative nature of the patient-physician relationship and the need for mutual candor and trust in that relationship.

Unfortunately, Dr. Jensen brought this case to the Litigation Center's attention long after the ordinary time for briefing had lapsed. The defendants objected to the *amicus* brief as untimely, and the Utah Supreme Court denied the motion for leave to file it.